

**U.S. District Court
District of Columbia (Washington, DC)
CIVIL DOCKET FOR CASE #: 1:10-cv-01698-RJL**

PERFORMANCE COAL COMPANY et al v. US
DEPARTMENT OF LABOR et al
Assigned to: Judge Richard J. Leon
Cause: 05:552 Freedom of Information Act

Date Filed: 10/05/2010
Date Terminated: 06/27/2012
Jury Demand: None
Nature of Suit: 895 Freedom of
Information Act
Jurisdiction: U.S. Government Defendant

Plaintiff

PERFORMANCE COAL COMPANY

represented by **Benjamin Dalrymple Wood**
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Plaintiff

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V.

Defendant

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Defendant

**MINE SAFETY AND HEALTH
ADMINISTRATION**

represented by **Heather D. Graham-Oliver**
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Date Filed	#	Docket Text
10/05/2010	<u>1</u>	COMPLAINT against MINE SAFETY AND HEALTH ADMINISTRATION, US DEPARTMENT OF LABOR (Filing fee \$ 350, receipt number 4616033199) filed by PERFORMANCE COAL COMPANY, ALLEN GUTHRIE & THOMAS, PLLC. (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Exhibit B, # <u>3</u> Exhibit C, # <u>4</u> Exhibit D, # <u>5</u> Exhibit E, # <u>6</u> Exhibit F, # <u>7</u> Exhibit G, # <u>8</u> Civil Cover Sheet)(rdj) (Entered: 10/06/2010)
10/05/2010		SUMMONS (4) Issued as to MINE SAFETY AND HEALTH ADMINISTRATION, US DEPARTMENT OF LABOR, U.S. Attorney and U.S. Attorney General (rdj) (Entered: 10/06/2010)
10/05/2010	<u>2</u>	LCvR 7.1 CERTIFICATE OF DISCLOSURE of Corporate Affiliations and Financial Interests by PERFORMANCE COAL COMPANY identifying Corporate Parent ELK RUN COAL COMPANY, INC., Corporate Parent MASSEY ENERGY COMPANY, Corporate Parent A.T. MASSEY COAL COMPANY, INC. for PERFORMANCE COAL COMPANY. (rdj) (Entered: 10/06/2010)

10/06/2010	<u>3</u>	NOTICE of Appearance by Haven G. Ward on behalf of All Plaintiffs (Ward, Haven) (Entered: 10/06/2010)
10/06/2010	<u>4</u>	NOTICE of Appearance by Benjamin Dalrymple Wood on behalf of All Plaintiffs (Wood, Benjamin) (Entered: 10/06/2010)
10/06/2010	<u>5</u>	NOTICE of Appearance by Robert David Luskin on behalf of All Plaintiffs (Luskin, Robert) (Entered: 10/06/2010)
10/15/2010	<u>6</u>	RETURN OF SERVICE/AFFIDAVIT of Summons and Complaint Executed. US DEPARTMENT OF LABOR served on 10/5/2010 (Slevin, Patrick) (Entered: 10/15/2010)
10/15/2010	<u>7</u>	RETURN OF SERVICE/AFFIDAVIT of Summons and Complaint Executed. MINE SAFETY AND HEALTH ADMINISTRATION served on 10/5/2010 (Slevin, Patrick) (Entered: 10/15/2010)
10/18/2010	<u>8</u>	RETURN OF SERVICE/AFFIDAVIT of Summons and Complaint Executed on Attorney General. Date of Service Upon Attorney General 10/5/2010. (znmw,) (Entered: 10/20/2010)
10/18/2010	<u>9</u>	RETURN OF SERVICE/AFFIDAVIT of Summons and Complaint Executed in a FOIA Case as to the U.S. Attorney for DC; MINE SAFETY AND HEALTH ADMINISTRATION served on 10/5/2010, answer due 11/4/2010; US DEPARTMENT OF LABOR served on 10/5/2010, answer due 11/4/2010 for U.S. Attorney. (znmw,) (Entered: 10/20/2010)
10/27/2010	<u>10</u>	NOTICE of Appearance by Heather D. Graham–Oliver on behalf of All Defendants (Graham–Oliver, Heather) (Entered: 10/27/2010)
10/27/2010	<u>11</u>	STANDING ORDER. Signed by Judge Richard J. Leon on 10/27/2010. (lcrjl3) (Entered: 10/27/2010)
11/02/2010	<u>12</u>	Consent MOTION for Extension of Time to File Answer re <u>1</u> Complaint, by MINE SAFETY AND HEALTH ADMINISTRATION, US DEPARTMENT OF LABOR (Attachments: # <u>1</u> Text of Proposed Order)(Graham–Oliver, Heather) (Entered: 11/02/2010)
11/04/2010		MINUTE ORDER granting <u>12</u> Motion for Extension of Time to File Responsive Pleading. It is hereby ORDERED that the motion is GRANTED; defendants shall have until December 6, 2010 to respond to the complaint. Signed by Judge Richard J. Leon on 11/4/2010. (lcrjl3) (Entered: 11/04/2010)
11/05/2010		Set/Reset Deadlines: defendants shall have until 12/6/2010 to respond to the complaint. (kc) (Entered: 11/05/2010)
12/06/2010	<u>13</u>	DEFENDANTS' ANSWER to <u>1</u> Complaint, by MINE SAFETY AND HEALTH ADMINISTRATION, US DEPARTMENT OF LABOR.(Graham–Oliver, Heather) (Entered: 12/06/2010)
12/27/2010	<u>14</u>	MEET AND CONFER STATEMENT. (Attachments: # <u>1</u> Text of Proposed Order Proposed Order)(Ward, Haven) (Entered: 12/27/2010)
12/27/2010	<u>15</u>	AMENDED COMPLAINT against MINE SAFETY AND HEALTH ADMINISTRATION, US DEPARTMENT OF LABOR filed by PERFORMANCE COAL COMPANY, ALLEN GUTHRIE & THOMAS, PLLC.(jf,) (Entered: 12/28/2010)
01/04/2011	<u>16</u>	SCHEDULING ORDER: Plaintiffs' Amended Complaint due by 12/27/2010. Defendants' Answer to Plaintiffs' Amended Complaint due by 2/1/2011. Defendants' Summary Judgment motion due by 3/11/2011. Plaintiffs' Cross–Motion for Summary Judgment and Opposition to Defendants' Motion for Summary Judgment due by 4/11/2011. Defendants' reply in support of Motion for Summary Judgment and Opposition to Plaintiffs' Cross–Motion due by 5/9/2011. Plaintiffs' Reply in Support of Cross–Motion for Summary Judgment due by 5/27/2011. Signed by Judge Richard J. Leon on 12/30/10. (see scheduling order) (kc) (Entered: 01/04/2011)

02/01/2011	<u>17</u>	ANSWER to <u>15</u> Amended Complaint by MINE SAFETY AND HEALTH ADMINISTRATION, US DEPARTMENT OF LABOR. Related document: <u>15</u> Amended Complaint filed by ALLEN GUTHRIE & THOMAS, PLLC, PERFORMANCE COAL COMPANY.(Graham-Oliver, Heather) (Entered: 02/01/2011)
03/11/2011	<u>18</u>	Unopposed MOTION for Extension of Time to File <i>Motion for Summary Judgment and for Leave to File Revised Joint Scheduling Order</i> by MINE SAFETY AND HEALTH ADMINISTRATION, US DEPARTMENT OF LABOR (Attachments: # <u>1</u> Text of Proposed Order)(Graham-Oliver, Heather). Added MOTION for Leave to File on 3/14/2011 (znmw,). (Entered: 03/11/2011)
03/17/2011		MINUTE ORDER granting <u>18</u> Motion for Extension of Time to File; granting <u>18</u> Motion for Leave to File. It is hereby ORDERED that the motion is GRANTED; the parties shall file a modified joint scheduling order on March 18, 2011 for the filing of summary judgment motions. Signed by Judge Richard J. Leon on 3/17/2011. (lcrjl3) (Entered: 03/17/2011)
03/18/2011	<u>19</u>	Joint MOTION for Order (<i>Scheduling Order</i>) by MINE SAFETY AND HEALTH ADMINISTRATION, US DEPARTMENT OF LABOR (Attachments: # <u>1</u> Text of Proposed Order)(Graham-Oliver, Heather) (Entered: 03/18/2011)
03/22/2011	<u>20</u>	NOTICE of Appearance by Edward D. Gehres on behalf of All Plaintiffs (Gehres, Edward) (Entered: 03/22/2011)
03/25/2011	<u>21</u>	SCHEDULING ORDER: Defendants Disclosable documents and vaughan indices due by 4/8/2011. Defendants' partial Motion for Summary Judgment due by 4/22/2011. Plaintiffs' Cross-Motion For Summary Judgment and opposition due by 5/23/2011. Defendants' reply due by 6/20/2011. Plaintiffs' reply due by 7/8/2011. Defendants disclosable documents and vaughan indices due by 6/1/2011. Defendants' partial motion for summary judgment due by 6/15/2011. Plaintiffs' cross-motion due by 7/15/2011. Defendants' reply due by 8/15/2011. Plaintiffs' reply due by 8/30/2011. Signed by Judge Richard J. Leon on 3/23/2011. (see scheduling order) (kc) (Entered: 03/25/2011)
04/19/2011	<u>22</u>	Unopposed MOTION for Extension of Time to File <i>Partial Motion for Summary Judgment</i> by MINE SAFETY AND HEALTH ADMINISTRATION, US DEPARTMENT OF LABOR (Attachments: # <u>1</u> Text of Proposed Order)(Graham-Oliver, Heather) (Entered: 04/19/2011)
04/22/2011	<u>23</u>	ORDER granting <u>22</u> Unopposed MOTION for Extension of Time to File Partial Motion for Summary Judgment by MINE SAFETY AND HEALTH ADMINISTRATION, US DEPARTMENT OF LABOR. Signed by Judge Richard J. Leon on 4/21/2011. (see order) (kc) (Entered: 04/22/2011)
04/22/2011		Set/Reset Deadlines: Defendants' Motion for Summary Judgment due by 4/29/2011. Plaintiffs' Cross-Motion for Summary Judgment and Opposition due by 5/31/2011. Defendants' Opposition and Reply due by 6/27/2011. Plaintiffs' Reply due by 7/15/2011. (kc) (Entered: 04/22/2011)
04/29/2011	<u>24</u>	MOTION for Extension of Time to File <i>Motion for Summary Judgment</i> by MINE SAFETY AND HEALTH ADMINISTRATION, US DEPARTMENT OF LABOR (Attachments: # <u>1</u> Text of Proposed Order)(Graham-Oliver, Heather) (Entered: 04/29/2011)
05/01/2011	<u>25</u>	Memorandum in opposition to re <u>24</u> MOTION for Extension of Time to File <i>Motion for Summary Judgment</i> filed by ALLEN GUTHRIE & THOMAS, PLLC, PERFORMANCE COAL COMPANY. (Attachments: # <u>1</u> Declaration Exhibit 1 (Ward Declaration), # <u>2</u> Exhibit Exhibit 2 (Mar. 9 email), # <u>3</u> Exhibit Exhibit 3 (Apr. 19 email), # <u>4</u> Exhibit Exhibit 4 (Apr. 29 email_1), # <u>5</u> Exhibit Exhibit 5 (Apr. 29 email_2), # <u>6</u> Exhibit Exhibit 6 (Apr. 29 email_3))(Ward, Haven) (Entered: 05/01/2011)
05/03/2011		NOITCE OF CORRECTED DOCKET ENTRY*****MINUTE ORDER granting <u>24</u> Motion for Extension of Time to File Motion for Partial Summary Judgment. It is hereby ORDERED that (1) Defendants have until May 6, 2011 to file their motion for partial summary judgment, (2) Plaintiffs have until June 6, 2011 to file their cross-motion for partial summary judgment, (3) Defendants have until July 6,

		2011 to file their opposition and reply, and (4)Plaintiffs have until July 21, 2011 to filed their reply. Signed by Judge Richard J. Leon on 5/3/2011. (lcrjl3) Modified on 5/6/2011 (kc). (Entered: 05/03/2011)
05/04/2011		NOTICE OF CORRECTED DOCKET ENTRY*****Set/Reset Deadlines: Defendant's Motion for Partial Summary Judgment due by 5/6/2011. Plaintiffs Cross-Motion for Partial Summary Judgment due by 6/6/2011. Defendants opposition and reply due by 7/6/2011. Plaintiffs reply due by 7/21/2011. (kc) Modified on 5/6/2011 (kc). (Entered: 05/04/2011)
05/06/2011	<u>26</u>	MOTION for Extension of Time to File <i>Motion for Partial Summary Judgment</i> by MINE SAFETY AND HEALTH ADMINISTRATION, US DEPARTMENT OF LABOR (Attachments: # <u>1</u> Text of Proposed Order)(Graham-Oliver, Heather) (Entered: 05/06/2011)
05/08/2011	<u>27</u>	Memorandum in opposition to re <u>26</u> MOTION for Extension of Time to File <i>Motion for Partial Summary Judgment</i> filed by ALLEN GUTHRIE &THOMAS, PLLC, PERFORMANCE COAL COMPANY. (Ward, Haven) (Entered: 05/08/2011)
05/09/2011	<u>28</u>	MOTION for Partial Summary Judgment by US DEPARTMENT OF LABOR (Attachments: # <u>1</u> Declaration, # <u>2</u> Exhibit, # <u>3</u> Exhibit, # <u>4</u> Exhibit, # <u>5</u> Exhibit, # <u>6</u> Exhibit, # <u>7</u> Exhibit, # <u>8</u> Exhibit, # <u>9</u> Affidavit, # <u>10</u> Affidavit, # <u>11</u> Affidavit, # <u>12</u> Exhibit G)(Graham-Oliver, Heather) (Entered: 05/09/2011)
05/13/2011	<u>29</u>	ORDER granting <u>26</u> Motion for Extension of Time to File Motion for Summary Judgment. Signed by Judge Richard J. Leon on 5/11/2011. (see order) (kc) (Entered: 05/13/2011)
05/13/2011		Set/Reset Deadlines: Defendants' Motion for Partial Summary Judgment due by 5/9/2011. Plaintiffs' Cross Motion for Partial Summary Judgment due by 6/9/2011. Defendants' Opposition and Reply due by 7/11/2011. Plaintiffs' Reply due by 7/25/2011. (kc) (Entered: 05/13/2011)
05/16/2011	<u>30</u>	NOTICE <i>Of Filing, exhibit List and Response Letters</i> by MINE SAFETY AND HEALTH ADMINISTRATION, US DEPARTMENT OF LABOR re <u>28</u> MOTION for Partial Summary Judgment (Attachments: # <u>1</u> Exhibit Exhibit List, # <u>2</u> Exhibit 5, # <u>3</u> Exhibit 6, # <u>4</u> Exhibit 7, # <u>5</u> Exhibit 8, # <u>6</u> Exhibit 9, # <u>7</u> Exhibit 10, # <u>8</u> Exhibit 11, # <u>9</u> Exhibit 12, # <u>10</u> Exhibit 13)(Graham-Oliver, Heather) (Entered: 05/16/2011)
06/01/2011	<u>31</u>	Consent MOTION for Extension of Time to File <i>Motion for Partial Summary Judgment Part II regarding the Comprehensive Request</i> by MINE SAFETY AND HEALTH ADMINISTRATION, US DEPARTMENT OF LABOR (Attachments: # <u>1</u> Text of Proposed Order)(Graham-Oliver, Heather) (Entered: 06/01/2011)
06/03/2011	<u>32</u>	Consent MOTION for Leave to File Excess Pages by ALLEN GUTHRIE &THOMAS, PLLC, PERFORMANCE COAL COMPANY (Attachments: # <u>1</u> Text of Proposed Order Proposed Order)(Ward, Haven) (Entered: 06/03/2011)
06/07/2011	<u>33</u>	ORDER granting <u>31</u> Motion for Extension of Time to File Defendants' final Motion for Partial Summary Judgment. Defendants will produce all disclosable documents and Vaughn indices for the "comprehensive request" concerning the Mine on 6/15/11. Defendants' Motion for Partial Summary Judgment by 7/8/11; Plaintiffs' Cross Motion for Partial Summary Judgment and Opposition by 8/15/11; Defendants' Opposition and Reply by 9/15/11; Plaintiffs' Reply by 9/29/11. Signed by Judge Richard J. Leon on 6/2/11. (gdf,) (Entered: 06/07/2011)
06/09/2011	<u>34</u>	Cross MOTION for Summary Judgment <i>and Opposition to Defendants' Partial Motion for Summary Judgment</i> by ALLEN GUTHRIE &THOMAS, PLLC, PERFORMANCE COAL COMPANY (Attachments: # <u>1</u> Memorandum in Support Memorandum in Support of Pls Cross Motion and Opposition to Defs. Motion, # <u>2</u> Statement of Facts Statement of Undisputed Material Facts, # <u>3</u> Exhibit SUMF Ex. 1, # <u>4</u> Exhibit SUMF Ex. 2, # <u>5</u> Exhibit SUMF Ex. 3, # <u>6</u> Exhibit SUMF Ex. 4, # <u>7</u> Exhibit SUMF Ex. 5, # <u>8</u> Exhibit SUMF Ex. 6, # <u>9</u> Exhibit SUMF Ex. 7, # <u>10</u> Exhibit SUMF Ex. 8, # <u>11</u> Exhibit SUMF Ex. 9, # <u>12</u> Exhibit SUMF Ex. 10, # <u>13</u> Exhibit SUMF Ex. 11, # <u>14</u> Exhibit SUMF Ex. 12, # <u>15</u> Exhibit SUMF Ex. 13, #

		<u>16</u> Exhibit SUMF Ex. 14, # <u>17</u> Exhibit SUMF Ex. 15, # <u>18</u> Exhibit SUMF Ex. 16, # <u>19</u> Exhibit SUMF Ex. 17, # <u>20</u> Exhibit SUMF Ex. 18, # <u>21</u> Exhibit SUMF Ex. 19, # <u>22</u> Exhibit SUMF Ex. 20, # <u>23</u> Exhibit SUMF Ex. 21, # <u>24</u> Exhibit SUMF Ex. 22, # <u>25</u> Exhibit SUMF Ex. 23, # <u>26</u> Exhibit SUMF Ex. 24, # <u>27</u> Exhibit SUMF Ex. 25, # <u>28</u> Exhibit SUMF Ex. 26, # <u>29</u> Exhibit SUMF Ex. 27)(Gehres, Edward). Added MOTION for Discovery on 6/10/2011 (znmw,). (Entered: 06/09/2011)
06/09/2011	<u>36</u>	Memorandum in opposition to re <u>28</u> MOTION for Partial Summary Judgment filed by ALLEN GUTHRIE & THOMAS, PLLC, PERFORMANCE COAL COMPANY. (See Docket Entry <u>34</u> to view document. Counsel is reminded to the file the opposition as a separate docket entry in future). (znmw,) (Entered: 06/10/2011)
06/10/2011	<u>35</u>	ORDER granting <u>32</u> Motion for Leave to File Excess Pages. Signed by Judge Richard J. Leon on 6/8/2011. (see order) (kc) (Entered: 06/10/2011)
06/15/2011	<u>37</u>	Corporate Disclosure Statement by PERFORMANCE COAL COMPANY. (Ward, Haven) (Entered: 06/15/2011)
07/06/2011	<u>38</u>	MOTION for Extension of Time to <i>To File Opposition</i> by MINE SAFETY AND HEALTH ADMINISTRATION, US DEPARTMENT OF LABOR (Attachments: # <u>1</u> Text of Proposed Order)(Graham–Oliver, Heather) (Entered: 07/06/2011)
07/07/2011	<u>39</u>	Memorandum in opposition to re <u>38</u> MOTION for Extension of Time to <i>To File Opposition</i> filed by ALLEN GUTHRIE & THOMAS, PLLC, PERFORMANCE COAL COMPANY. (Attachments: # <u>1</u> Exhibit Exhibit 1 (Email between Counsel), # <u>2</u> Exhibit Exhibit 2 (Proposed Order))(Ward, Haven) (Entered: 07/07/2011)
07/08/2011	<u>40</u>	MOTION for Extension of Time to <i>File Final Motion For partial Summary Judgment</i> by MINE SAFETY AND HEALTH ADMINISTRATION, US DEPARTMENT OF LABOR (Attachments: # <u>1</u> Text of Proposed Order)(Graham–Oliver, Heather) (Entered: 07/08/2011)
07/08/2011	<u>41</u>	REPLY to opposition to motion re <u>38</u> MOTION for Extension of Time to <i>To File Opposition</i> filed by MINE SAFETY AND HEALTH ADMINISTRATION, US DEPARTMENT OF LABOR. (Graham–Oliver, Heather) (Entered: 07/08/2011)
07/11/2011		MINUTE ORDER granting <u>38</u> Defendants' Motion for Extension of Time to File Opposition to Plaintiffs' Cross–Motion for Summary Judgment and Motion for Discovery. It is hereby ORDERED that Defendants' remaining oppositions and replies are due on September 15, 2011, and that Plaintiffs' replies are due on September 29, 2011. Signed by Judge Richard J. Leon on 7/11/2011. (lcrjl3) (Entered: 07/11/2011)
07/14/2011		Set/Reset Deadlines: Defendant's remaining oppositions and replies are due by 9/15/2011. (kc) (Entered: 07/14/2011)
07/15/2011	<u>42</u>	Second MOTION for Partial Summary Judgment by MINE SAFETY AND HEALTH ADMINISTRATION, US DEPARTMENT OF LABOR (Attachments: # <u>1</u> Affidavit Washington Declaration, # <u>2</u> Exhibit 14 – Release Letter, # <u>3</u> Exhibit 15 – Release Letter, # <u>4</u> Exhibit 16 – Release Letter, # <u>5</u> Exhibit H – Vaughn Index, # <u>6</u> Exhibit I – Vaughn Index, # <u>7</u> Exhibit J – Vaughn Index)(Graham–Oliver, Heather) (Entered: 07/15/2011)
07/20/2011		MINUTE ORDER granting <u>40</u> Defendants' Motion for Extension of Time to File Their Final Motion for Partial Summary Judgment and Reply to Plaintiffs' Opposition to Consolidate Final Response. It is hereby ORDERED that Defendants' final motion for summary judgment is due July 15, 2011; Plaintiffs' opposition and cross–motion is due August 22, 2011; Defendants' opposition and reply is due September 15, 2011; and Plaintiffs' reply is due October 29, 2011. Signed by Judge Richard J. Leon on 7/20/2011. (lcrjl3) (Entered: 07/20/2011)
07/23/2011		Set/Reset Deadlines: Defendant's Final Motion for Summary Judgment is due by 7/15/2011; Plaintiffs' Opposition and Cross Motion is due by 8/22/2011; Defendants' Reply to Motion for Summary Judgment and Opposition to the Cross–Motion is due by 9/15/2011. Plaintiffs' Reply to the Cross Motion is due by 10/29/2011. (jth) (Entered: 07/23/2011)

08/22/2011	<u>43</u>	Cross MOTION for Partial Summary Judgment (<i>Partial</i>) by ALLEN GUTHRIE & THOMAS, PLLC, PERFORMANCE COAL COMPANY (Attachments: # <u>1</u> Memorandum in Support Pls Cross Motion and Opposition to Defs. Motion, # <u>2</u> Statement of Facts (SUMF), # <u>3</u> Declaration SUMF Exhibit 28, # <u>4</u> Exhibit SUMF Exhibit 29, # <u>5</u> Exhibit SUMF Exhibit 30, # <u>6</u> Exhibit SUMF Exhibit 31, # <u>7</u> Exhibit SUMF Exhibit 32, # <u>8</u> Exhibit SUMF Exhibit 33, # <u>9</u> Exhibit SUMF Exhibit 34, # <u>10</u> Exhibit SUMF Exhibit 35, # <u>11</u> Exhibit SUMF Exhibit 36, # <u>12</u> Exhibit SUMF Exhibit 37, # <u>13</u> Exhibit SUMF Exhibit 38, # <u>14</u> Exhibit SUMF Exhibit 39, # <u>15</u> Exhibit SUMF Exhibit 40, # <u>16</u> Exhibit SUMF Exhibit 41, # <u>17</u> Exhibit SUMF Exhibit 42)(Gehres, Edward) Modified event title on 8/23/2011 (znmw,). (Entered: 08/22/2011)
08/22/2011	<u>44</u>	Memorandum in opposition to re <u>42</u> Second MOTION for Partial Summary Judgment filed by ALLEN GUTHRIE & THOMAS, PLLC, PERFORMANCE COAL COMPANY. (Attachments: # <u>1</u> Statement of Facts (SUMF), # <u>2</u> Declaration SUMF Exhibit 28, # <u>3</u> Exhibit SUMF Exhibit 29, # <u>4</u> Exhibit SUMF Exhibit 30, # <u>5</u> Exhibit SUMF Exhibit 31, # <u>6</u> Exhibit SUMF Exhibit 32, # <u>7</u> Exhibit SUMF Exhibit 33, # <u>8</u> Exhibit SUMF Exhibit 34, # <u>9</u> Exhibit SUMF Exhibit 35, # <u>10</u> Exhibit SUMF Exhibit 36, # <u>11</u> Exhibit SUMF Exhibit 37, # <u>12</u> Exhibit SUMF Exhibit 38, # <u>13</u> Exhibit SUMF Exhibit 39, # <u>14</u> Exhibit SUMF Exhibit 40, # <u>15</u> Exhibit SUMF Exhibit 41, # <u>16</u> Exhibit SUMF Exhibit 42)(Gehres, Edward) (Entered: 08/22/2011)
09/15/2011	<u>45</u>	Consent MOTION for Extension of Time to File Response/Reply by US DEPARTMENT OF LABOR (Attachments: # <u>1</u> Text of Proposed Order)(Graham–Oliver, Heather) (Entered: 09/15/2011)
09/22/2011		MINUTE ORDER granting <u>45</u> Defendant's Consent Motion for Extension of Time to File Motion for Summary Judgment. Signed by Judge Richard J. Leon on 9/22/2011. (lcrjl3) (Entered: 09/22/2011)
09/22/2011	<u>46</u>	Consent MOTION for Extension of Time to File Response/Reply by MINE SAFETY AND HEALTH ADMINISTRATION, US DEPARTMENT OF LABOR (Attachments: # <u>1</u> Text of Proposed Order)(Graham–Oliver, Heather) (Entered: 09/22/2011)
09/27/2011	<u>47</u>	ORDER: Upon consideration of the defendants' <u>46</u> Motion for Extension of Time to File Response/Reply re <u>46</u> Consent MOTION for Extension of Time to File Response/Reply; it is hereby ordered that the motion is GRANTED. Response/Reply due by 9/26/2011. Plaintiff's reply due by 11/11/2011. Signed by Judge Richard J. Leon on 09/26/11. (tb,) (Entered: 09/27/2011)
09/27/2011	<u>48</u>	Consent MOTION for Extension of Time to File Response/Reply by MINE SAFETY AND HEALTH ADMINISTRATION, US DEPARTMENT OF LABOR (Graham–Oliver, Heather) (Entered: 09/27/2011)
09/28/2011	<u>49</u>	ERRATA by MINE SAFETY AND HEALTH ADMINISTRATION, US DEPARTMENT OF LABOR <u>48</u> Consent MOTION for Extension of Time to File Response/Reply filed by MINE SAFETY AND HEALTH ADMINISTRATION, US DEPARTMENT OF LABOR. (Attachments: # <u>1</u> Text of Proposed Order)(Graham–Oliver, Heather) (Entered: 09/28/2011)
10/04/2011	<u>50</u>	Consent MOTION for Extension of Time to File Response/Reply by MINE SAFETY AND HEALTH ADMINISTRATION, US DEPARTMENT OF LABOR (Attachments: # <u>1</u> Text of Proposed Order)(Graham–Oliver, Heather) (Entered: 10/04/2011)
10/05/2011	<u>51</u>	ORDER, Upon Full consideration of the Motion, it is hereby ORDERED that: The Defendant's Consent Motion for Enlargment of Time is hereby GRANTED. The Parties shall abide by the following schedule for the remainder of the case: Defendant's Opposition and reply due by 10/4/2011. Plaintiff's Reply due by 11/18/2011. Signed by Judge Richard J. Leon on 10/3/2011. (see order) (kc) (Entered: 10/05/2011)
10/05/2011	<u>52</u>	Memorandum in opposition to re <u>34</u> Cross MOTION for Summary Judgment <i>and Opposition to Defendants' Partial Motion for Summary Judgment</i> MOTION for Discovery, <u>43</u> Cross MOTION for Partial Summary Judgment filed by MINE SAFETY AND HEALTH ADMINISTRATION, US DEPARTMENT OF

		LABOR. (Attachments: # <u>1</u> Exhibit Vaughn index, # <u>2</u> Exhibit Vaughn index, # <u>3</u> Exhibit Vaughn index, # <u>4</u> Exhibit Vaughn index, # <u>5</u> Exhibit Vaughn index, # <u>6</u> Exhibit Vaughn index, # <u>7</u> Exhibit Vaughn index, # <u>8</u> Exhibit Vaughn index, # <u>9</u> Affidavit, # <u>10</u> Affidavit)(Graham–Oliver, Heather) (Entered: 10/05/2011)
10/05/2011	<u>53</u>	REPLY to opposition to motion re <u>28</u> MOTION for Partial Summary Judgment, <u>42</u> Second MOTION for Partial Summary Judgment filed by MINE SAFETY AND HEALTH ADMINISTRATION, US DEPARTMENT OF LABOR. (Graham–Oliver, Heather) (Entered: 10/05/2011)
10/07/2011	<u>54</u>	NOTICE <i>Of Filing Exhibits and Exhibit List</i> by MINE SAFETY AND HEALTH ADMINISTRATION, US DEPARTMENT OF LABOR re <u>52</u> Memorandum in Opposition,, (Attachments: # <u>1</u> Affidavit Lanesia Washington Declaration, # <u>2</u> Affidavit Mackowiak Declaration, # <u>3</u> Exhibit Wagner Supp Release letter, # <u>4</u> Exhibit Vaughn Index—Event Nos., # <u>5</u> Exhibit Exhibit List)(Graham–Oliver, Heather) (Entered: 10/07/2011)
11/16/2011	<u>55</u>	Consent MOTION for Leave to File Excess Pages by ALLEN GUTHRIE & THOMAS, PLLC, PERFORMANCE COAL COMPANY (Attachments: # <u>1</u> Text of Proposed Order)(Gehres, Edward) (Entered: 11/16/2011)
11/18/2011	<u>56</u>	REPLY to opposition to motion re <u>43</u> Cross MOTION for Partial Summary Judgment, <u>34</u> Cross MOTION for Summary Judgment <i>and Opposition to Defendants' Partial Motion for Summary Judgment</i> MOTION for Discovery filed by ALLEN GUTHRIE & THOMAS, PLLC, PERFORMANCE COAL COMPANY. (Attachments: # <u>1</u> Exhibit Pls. Ex. 43, # <u>2</u> Declaration Pls. Ex. 44 (Gehres Declaration))(Gehres, Edward) (Entered: 11/18/2011)
11/21/2011		MINUTE ORDER granting <u>55</u> Consent Motion for Extension of Page Limit. It is hereby ORDERED that the motion is GRANTED. Signed by Judge Richard J. Leon on 11/16/11.(lcrjl3) (Entered: 11/21/2011)
03/08/2012	<u>57</u>	MEMORANDUM OPINION. Signed by Judge Richard J. Leon on 3/7/2012. (kc) (Entered: 03/08/2012)
03/08/2012	<u>58</u>	ORDER, For the reasons set forth in the Memorandum Opinion entered this 7th day of March, 2012, it is hereby, ORDERED that defendants' Motions for Summary Judgment <u>28</u> and <u>42</u> are GRANTED; and it is further ORDERED that the plaintiffs' Cross–Motions for Summary Judgment <u>34</u> and <u>43</u> are DENIED; and it is further ORDERED that final judgment be entered for the defendants on all counts in the Complaint. SO ORDERED. Signed by Judge Richard J. Leon on 3/7/2012. (see order) (kc) (Entered: 03/08/2012)
06/27/2012	<u>59</u>	CLERK'S JUDGMENT in favor of Defendants against Plaintiffs. Signed by Judge Richard J. Leon on 6/27/2012. (jth) (Entered: 06/27/2012)